

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|----------------------------------|---|----------------|
| RICHARD A. LOMBARDO, |) | |
| |) | |
| Plaintiff, |) | |
| |) | CIVIL ACTION |
| v. |) | NO. 07-cv-1124 |
| |) | |
| MICHAEL J. ASTRUE, |) | |
| Commissioner of Social Security, |) | |
| |) | |
| Defendant. |) | |

ORDER

AND NOW, this 19th day of May 2008, after careful review of the Report and Recommendation ("R&R") of United States Magistrate Judge Peter B. Scuderi [Doc. No. 15], to which no objection has been filed, it is hereby **ORDERED** that:

1. The R&R is **APPROVED** and **ADOPTED**; and
2. Plaintiff's Complaint is **DISMISSED** without prejudice.

The Clerk of Court is **DIRECTED** to close this case.

It is so **ORDERED**.¹

¹ The Court herein adopts Magistrate Judge Peter B. Scuderi's articulate and well-reasoned R&R. We cannot address the merits of Plaintiff's Complaint in this matter because he failed to file with this Court a brief in support of his request for judicial review of the final decision of the Commissioner of Social Security (the "Commissioner"), pursuant to 42 U.S.C. § 405(g). Plaintiff initiated this action by filing a Complaint in this Court on March 22, 2007, without a supporting brief. On March 26, 2007, this Court entered a Procedural Order for Social Security Review [Doc. No. 4], advising him of his obligation to file a brief and statement of issues in support of his request for review within 45 days of service of Defendant's Answer. Defendant's Answer [Doc. No. 6] was filed and served on May 24, 2007. Plaintiff failed to file anything else with the Court for the remainder of the year 2007, obviously missing his 45-day limit in which he had to file his supporting brief, which expired on July 8, 2007. Judge Scuderi then sent Plaintiff a letter on December 21, 2007 explaining the procedural history of this matter to date, and allowing him an additional 30 days to submit the brief and statement of issues supporting his Complaint. Plaintiff responded by submitting a letter, dated January 17, 2008, which updated the Court on his current health status without addressing why the Court should review and overturn the final decision of the Commissioner.

As the R&R explains, Plaintiff is proceeding *pro se*, so his pleadings and submissions must be construed liberally. *See, e.g., Haines v. Kerner*, 404 U.S. 519, 520-21 (1972). For that reason, Judge Scuderi allowed Plaintiff extra time to submit the proper documentation supporting his Complaint. Even applying the most liberal analysis to

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.

Plaintiff's letter, however, Judge Scuderi held, and this Court agrees, that it could not reasonably be construed as a brief and/or statement of issues sufficient to support a request for review in this matter. For that reason, Plaintiff's case must be dismissed without prejudice for his failure to submit the proper pleadings supporting his request for review.